

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

SARA AND COLIN BATTERHAM,)	3:11-cv-00527-ECR-WGC
)	
Plaintiffs,)	<u>Order</u>
)	
vs.)	
)	
SURAT SINGH, KHALSA RESORTS,)	
)	
Defendants.)	
)	
)	

Plaintiffs filed a Complaint (#1) on July 22, 2011 alleging four causes of action arising under state law: (1) Denial of CA State Wage Laws; (2) Defamation; (3) False Light; and (4) Infliction of Emotional Distress.

Now pending is Defendants' Motion to Dismiss for Lack of Jurisdiction (#5) filed on October 20, 2011. On October 21, 2011, the Court issued a Minute Order (#8) advising Plaintiffs, appearing pro se, that if they failed to respond their case could be dismissed. Plaintiffs did not respond.

Diversity jurisdiction is proper where the parties are citizens of different states. 28 U.S.C. § 1332. For this reason, the citizenship of the parties is a jurisdictional fact in diversity actions, and the burden is on the party attempting to invoke diversity jurisdiction to affirmatively plead facts that provide a basis for exercising jurisdiction. Bautista v. Pan Am. World

1 Airlines, Inc., 828 F.2d 546, 552 (9th Cir. 1987). In this case,
2 Plaintiffs have failed to plead jurisdictional facts, including the
3 citizenship of the parties. Moreover, Defendants have sufficiently
4 proved that they are citizens of California, while the Plaintiffs'
5 address listed on their complaint is also in California.

6 Finally, Plaintiffs have failed to respond to Defendants'
7 Motion to Dismiss (#5) in spite of an Order of the Court (#8)
8 directing them to do so. Local Rule 7-2(d) provides that "[t]he
9 failure of an opposing party to file points and authorities in
10 response to any motion shall constitute a consent to the granting of
11 the motion."

12 For the foregoing reasons, Plaintiffs' complaint (#1) must be
13 dismissed.

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15 **IT IS, THEREFORE, HEREBY ORDERED** that Defendants' Motion to
16 Dismiss for Lack of Jurisdiction (#5) is **GRANTED**.

17 **IT IS FURTHER ORDERED** that Plaintiffs shall have twenty-one
18 (21) days within which to file an amended complaint showing proper
19 jurisdiction in this court. Should Plaintiffs fail to do so, the
20 case will be dismissed.

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23 DATED: January 5, 2012.

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25 UNITED STATES DISTRICT JUDGE